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11  
12 UNITED STATES DISTRICT COURT  
13 CENTRAL DISTRICT OF CALIFORNIA  
14

15  
16 UNICOLORS, INC., a California  
17 Corporation;

18 Plaintiff,

19 vs.

20 TONY TONGUM KIM, an individual;  
21 JACQUELINE B. WILSON, an  
22 individual; and DOES 1-10, inclusive,

23 Defendants.  
24

Case Number: 2:17-cv-6160

**PLAINTIFF'S COMPLAINT FOR:**

- 25  
26 **1. COPYRIGHT INFRINGEMENT**  
**2. VICARIOUS COPYRIGHT**  
**INFRINGEMENT**  
**3. CONTRIBUTORY COPYRIGHT**  
**INFRINGEMENT**

**Jury Trial Demanded**

27 Plaintiff UNICOLORS, INC. ("Plaintiff" or "UNICOLORS") by and through its  
28 undersigned attorneys, hereby prays to this honorable Court for relief and remedy  
based on the following:

## **INTRODUCTION**

Plaintiff is a California-based company engaged in the apparel industry as a textile converter of imported and domestic fabrications. Plaintiff creates, or purchases and obtains, exclusive rights to unique two-dimensional graphic artworks for use on textiles and garments, and those textiles and garments are transacted primarily in the fashion industry. Plaintiff owns these designs in exclusivity and makes sales of products bearing these designs for profit. Plaintiff's business is predicated on its ownership of these designs and it spends a considerable amount of time and resources creating and obtaining top-quality, marketable and aesthetically-appealing designs. Customers of Plaintiff, including possibly DOE defendants named herein, take design samples with the understanding and agreement that they will only utilize Plaintiff to reproduce said designs should they wish to do so, and will not seek to make minor changes to Plaintiff's proprietary work to reproduce the same elsewhere, yet use those designs in furtherance of their business in violation of both their contractual agreement with Plaintiff and Plaintiff's copyrights. No other party is authorized to make sales of product bearing Plaintiff's proprietary designs without express permission from Plaintiff. This action is brought to recover damages for direct, vicarious and contributory copyright infringement arising out of the misappropriation of Plaintiff's exclusive designs by the Defendants, and each of them.

## **JURISDICTION AND VENUE**

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C. § 101 *et seq.*
2. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331, 1338(a) and (b).

1 3. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(c) and 1400(a)  
2 in that this is the judicial district in which a substantial part of the acts and  
3 omissions giving rise to the claims occurred.

4 **PARTIES**

5 4. UNICOLORS, Inc. (“Plaintiff”) is a corporation organized and existing under  
6 the laws of the State of California with its principal place of business in the  
7 County of Los Angeles, at 3251 East 26th Street, Vernon, CA 90058.

8 5. Plaintiff is informed and believes and thereon alleges that Defendant TONY  
9 TONGUM KIM, an individual (“KIM”), is, and at all times herein mentioned  
10 was, an individual residing in Los Angeles, California. Plaintiff is informed and  
11 believes and thereon alleges that Defendant KIM is, and at all times herein  
12 mentioned was, the owner and principal of FASHION LIFE with its principal  
13 place of business at 801 Madera Place, Fullerton, CA 92835.

14 6. Plaintiff is informed and believes and thereon alleges that Defendant  
15 JACQUELINE B. WILSON, an individual (“WILSON”), is, and at all times  
16 herein mentioned was, an individual residing in Los Angeles, California.  
17 Plaintiff is informed and believes and thereon alleges that Defendant WILSON  
18 is, and at all times herein mentioned was, the owner and principal of JES  
19 APPAREL LLC with its principal place of business at 2211 S Hacienda Blvd,  
20 Hacienda Heights, CA 91745.

21 7. Named Defendants, and Does 1-10, may be collectively referred to as  
22 “Defendants.”

23 8. Plaintiff is informed and believes and thereon alleges that some of Defendants  
24 Does 1 through 3, inclusive, are manufacturers and/or vendors of garments to  
25 Defendant, which DOE Defendants have manufactured and/or supplied and are  
26 manufacturing and/or supplying garments comprised of fabric printed with  
27 Plaintiff’s copyrighted design(s) (as hereinafter defined) without Plaintiff’s  
28 knowledge or consent or have contributed to said infringement. The true

1 names, whether corporate, individual or otherwise, and capacities of defendants  
2 sued herein as Does 1 through 3 are presently unknown to Plaintiff at this time,  
3 and therefore, Plaintiff sues said defendants by such fictitious names. Plaintiff  
4 will seek leave to amend this complaint to allege their true names and capacities  
5 when the same have been ascertained. Plaintiff is informed and believes, and  
6 based thereon alleges, that each of defendants designated as a DOE is  
7 responsible in some manner for the events alleged herein and the damages  
8 caused thereby.

9 9. Defendants DOES 4 through 10, inclusive, are other parties not yet identified  
10 who have infringed Plaintiff's copyrights, have contributed to the infringement  
11 of Plaintiff's copyrights, or have engaged in one or more of the wrongful  
12 practices alleged herein. The true names, whether corporate, individual or  
13 otherwise, and capacities of defendants sued herein as Does 4 through 10 are  
14 presently unknown to Plaintiff at this time, and therefore, Plaintiff sues said  
15 defendants by such fictitious names. Plaintiff will seek leave to amend this  
16 complaint to allege their true names and capacities when the same have been  
17 ascertained.

18 10. Plaintiff is informed and believes and thereupon alleges that at all times  
19 relevant hereto each of Defendants acted in concert with each other, was the  
20 agent, affiliate, officer, director, manager, principal, alter-ego, and/or employee  
21 of the remaining defendants and was at all times acting within the scope of such  
22 agency, affiliation, alter-ego relationship and/or employment; and actively  
23 participated in or subsequently ratified and adopted, or both, each and all of the  
24 acts or conducts alleged, with full knowledge of all the facts and circumstances,  
25 including without limitation to full knowledge of each and every wrongful  
26 conducts and Plaintiff's damages caused therefrom.

27 **CLAIMS RELATED TO DESIGN**  
28

1 11.Plaintiff is the owner and author of a two-dimensional artwork called MD298  
2 (“Subject Design”). (Exhibit A).

3 12.Plaintiff applied for a copyright from the United States Copyright Office for the  
4 Subject Design and was granted Registration No. VA 1-855-554 effective on  
5 April 1, 2013. (Exhibit B).

6 13.Plaintiff formatted the Subject Design for use on textiles, sampled the Subject  
7 Design, and negotiated sales of fabric bearing the Subject Design.

8 14.Plaintiff is informed and believes and thereon alleges that Defendants, each of  
9 them, had access to the Subject Designs, including without limitation, through:  
10 (a) access to Plaintiff’s showroom and/or design library; (b) access to illegally  
11 distributed copies of the Subject Designs by third-party vendors and/or DOE  
12 Defendants, including without limitation international and/or overseas  
13 converters and printing mills; (c) access to Plaintiff’s strike-offs and samples;  
14 and (d) access to garments in the marketplace manufactured with lawfully  
15 printed fabric bearing the Subject Designs.

16 15.Plaintiff is informed and believes and thereon alleges that, without Plaintiff’s  
17 authorization, Defendant KIM purchased, sold, marketed, advertised,  
18 manufactured, caused to be manufactured, imported and/or distributed fabric  
19 and/or garments comprised of fabric featuring a design which is identical, or  
20 substantially similar to, the Subject Design. A true and correct copy of such a  
21 garment is attached hereto as Exhibit C. Said garments include but are not  
22 limited to garments sold by KIM.

23 16.At various times Defendant KIM owned and controlled offline and/or online  
24 retail stores, and each, Plaintiff’s investigation revealed that garments  
25 comprised of fabric bearing the Subject Design were being offered for sale,  
26 garments which were manufactured and/or imported under the direction of the  
27 Defendants, and each of them.

1 17.Plaintiff is informed and believes and thereon alleges that, without Plaintiff's  
2 authorization, Defendant WILSON purchased, sold, marketed, advertised,  
3 manufactured, caused to be manufactured, imported and/or distributed fabric  
4 and/or garments comprised of fabric featuring a design which is identical, or  
5 substantially similar to, the Subject Design. A true and correct copy of such a  
6 garment is attached hereto as Exhibit C. Said garments include but are not  
7 limited to garments sold by WILSON.

8 18.At various times Defendant WILSON owned and controlled offline and/or  
9 online retail stores, and each, Plaintiff's investigation revealed that garments  
10 comprised of fabric bearing the Subject Design were being offered for sale,  
11 garments which were manufactured and/or imported under the direction of the  
12 Defendants, and each of them.

13 19.None of the aforementioned transactions were authorized by Plaintiff, and all  
14 were in violation of Plaintiff's intellectual property rights.

15  
16 **FIRST CLAIM FOR RELIEF**

17 (For Copyright Infringement – Against all Defendants, and Each)

18 20.Plaintiff repeats, re-alleges and incorporates herein by reference as though fully  
19 set forth the allegations contained in Paragraphs 1 through 19, inclusive, of this  
20 Complaint.

21 21.Plaintiff is informed and believes and thereon alleges that Defendants, and each  
22 of them, accessed the Subject Design through, without limitation, the following:  
23 (a) access to Plaintiff's design library; (b) access to authorized or unauthorized  
24 reproductions in the possession of other vendors and/or DOE Defendants; and  
25 (c) access to Plaintiff's strike-offs, swatches, paper CADs and samples.

26 22.Plaintiff is informed and believes and thereon alleges that Defendants, and each  
27 of them, infringed Plaintiff's copyright by importing, creating, marketing,  
28 advertising, making, and/or developing directly infringing and/or derivative

1 works from the Subject Design and by importing, producing, distributing and/or  
2 selling infringing garments through a nationwide network of retail stores,  
3 catalogues, and online websites.

4 23. Due to Defendants' acts of infringement, Plaintiff has suffered substantial  
5 damages to its business in an amount to be established at trial.

6 24. Due to Defendants' acts of infringement, Plaintiff has suffered general and  
7 special damages to its business in an amount to be established at trial.

8 25. Due to Defendants' acts of copyright infringement as alleged herein,  
9 Defendants, and each of them, have obtained direct and indirect profits they  
10 would not otherwise have realized but for their infringement of the Subject  
11 Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits  
12 directly and indirectly attributable to Defendants' infringement of the Subject  
13 Design in an amount to be established at trial.

14 26. Plaintiff is informed and believes and thereon alleges that Defendants, and each  
15 of them, have committed acts of infringement alleged herein with actual or  
16 constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a  
17 finding of willful infringement.

18  
19 **SECOND CLAIM FOR RELIEF**

20 (For Vicarious Copyright Infringement - Against All Defendants)

21 27. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully  
22 set forth the allegations contained in Paragraphs 1 through 26, inclusive, of this  
23 Complaint.

24 28. Plaintiff is informed and believes and thereon alleges that Defendants, and each  
25 of them, knowingly induced, participated in, aided and abetted in and  
26 resultantly profited from the illegal reproduction, importation, purchase,  
27 marketing, advertisement, distribution and/or sales of product featuring the  
28 Subject Design as alleged herein above.

1 29.Plaintiff is informed and believes and thereon alleges that Defendants, and each  
2 of them, are vicariously liable for the infringement alleged herein because they  
3 had the right and ability to supervise the infringing conduct and because they  
4 had a direct financial interest in the infringing product.

5 30.By reason of the Defendants', and each of their, acts of contributory and/or  
6 vicarious infringement as alleged above, Plaintiff has suffered and will continue  
7 to suffer substantial damages to its business in an amount to be established at  
8 trial, as well as additional general and special damages in an amount to be  
9 established at trial.

10 31.Due to Defendants' acts of contributory and/or vicarious copyright infringement  
11 as alleged herein, Defendants, and each of them, have obtained direct and  
12 indirect profits they would have not otherwise realized bur for their  
13 infringement of the Subject Design. As such, Plaintiff is entitled to  
14 disgorgement of Defendants' profits directly and indirectly attributable to  
15 Defendants' infringement of the Subject Design, an amount to be established at  
16 trial.

17 32.Plaintiff is informed and believes and thereon alleges that Defendants, and each  
18 of them, have committed acts of infringement alleged herein with actual or  
19 constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a  
20 finding of willful infringement.

21  
22 **THIRD CLAIM FOR RELIEF**

23 (Contributory Copyright Infringement– Against All Defendants)

24 33.Plaintiff repeats, re-alleges and incorporates herein by reference as though fully  
25 set forth the allegations contained hereforeto, inclusive, of this Complaint.

26 34.Plaintiff is informed and believes and thereon alleges that Defendants, and each  
27 of them, knowingly induced, caused, materially contributed to, participated in,  
28 encourages, aided and abetted in and resultantly profited from the illegal



1 reproduction, importation, purchase, marketing, advertising, distribution and/or  
2 sales of product featuring the Subject Design as alleged herein above.

3 35.By reason of the Defendants', and each of their, acts of contributory copyright  
4 infringement as alleged above, Plaintiff has suffered and will continue to suffer  
5 substantial damages to its business in an amount to established at trial, as well  
6 as additional general and special damages in an amount to be established at  
7 trial.

8 36.Due to Defendants' acts of contributory copyright infringement as alleged  
9 herein, Defendants, and each of them, have obtained direct and indirect profits  
10 they would have not otherwise realized bur for their infringement of the Subject  
11 Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits  
12 directly and indirectly attributable to Defendants' infringement of the Subject  
13 Design, an amount to be established at trial.

14 37.Plaintiff is informed and believes and thereon alleges that Defendants, and each  
15 of them, have committed acts of infringement alleged herein with actual or  
16 constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a  
17 finding of willful infringement.

18  
19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for judgment against all Defendants as follows:

21 **Against All Defendants**

22 With respect to Each Claim for Relief:

- 23 1. That Defendants, their agents and servants be enjoined from infringing  
24 Plaintiff's copyrights in any manner;  
25 2. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff,  
26 the exact sum to be proven at time of trial, or, if elected before final judgment,  
27 statutory damages as available under the Copyright Act, 17 U.S.C. § 101 *et*  
28 *seq.*;

- 1 3. That Plaintiff be awarded its attorneys' fees as available under the Copyright
- 2 Act, 17 U.S.C. § 101 *et seq.*;
- 3 4. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 4 5. That Plaintiff be awarded costs of litigation; and
- 5 6. That Plaintiff be awarded such further legal and equitable relief as the Court
- 6 deems proper.

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12 **DEMAND FOR TRIAL BY JURY**

13 Plaintiff hereby demands a trial by jury in this action pursuant to Federal Rule of

14 Civil Procedure 38 and the Seventh Amendment of the Constitution.

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16 Dated: August 18, 2017

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18 Respectfully submitted,

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21 /s/C. Yong Jeong

22 C. Yong Jeong, Esq.

23 Attorneys for Plaintiff

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